

Location **217-219 Regents Park Road London N3 3LD**

Reference: **17/0506/FUL** Received: 27th January 2017
Accepted: 3rd February 2017

Ward: Finchley Church End Expiry 31st March 2017

Applicant: .

Proposal: Demolition of existing outbuilding and erection of a part single part two storey rear extension with timber fence at first floor level to surround proposed A/C units/plant equipment. Installation of ATM, trolley bay and bollards. Change of use of No. 219a from a self-contained residential dwelling (Class C3) to provide ancillary Class A1 floorspace.

Recommendation: Refuse

- 1 The proposed development would involve the loss of residential accommodation (Use Class C3), contrary to policy CS4 of the Barnet Adopted Core Strategy (2012) and policy DM07 of the Adopted Development Management Policies DPD (2012) and policy 3.14 of the London Plan 2016.

- 2 The proposed two storey rear extension by reason of its size, siting, design and flat roof would be inappropriate and out of context with the prevailing character of the area and would introduce a feature detrimental to the character and appearance of the host building, contrary to policies CS1 and CS5 of Barnet's Adopted Core Strategy (2012) and policy DM01 of the Adopted Development Management Policies DPD (2012).

- 3 The proposed two storey extension by reason of its size, siting, height and depth would have an overbearing appearance when viewed from the adjoining property, No. 217A Regents Park Road, which would adversely affect the outlook from the property and lead to a harmfully increased sense of enclosure , detrimental to the residential amenity of the neighbouring occupiers contrary to Policy CS5 of Barnet's Adopted Core Strategy (2012), Policy DM01 of the Adopted Development Management Policies DPD (2012) and the Adopted Residential Design Guidance SPD (2013).

Informative(s):

- 1 The plans accompanying this application are:

PP100 B (Site Plan)
PP101 B (Location Plan)
PP102 (Existing Ground Floor Plan)
PP103 B (Existing First Floor Plan)
PP104 A (Existing East Elevation A Front Facade)

PP105 B (Existing South Elevation B)
PP106 A (Existing West Elevation C)
PP107 A (Existing North Elevation D)
PP108 B (Proposed Ground Floor Plan)
PP109 D (Proposed First Floor Plan)
PP110 A (Proposed East Elevation A)
PP111 C (Proposed South Elevation B)
PP112 A (Proposed West Elevation C)
PP113 (Proposed North Elevation D)

- 2 In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority (LPA) has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered.

The applicant did not seek to engage with the LPA prior to the submission of this application through the established formal pre-application advice service. The LPA has discussed the proposal with the applicant/agent where necessary during the application process. Unfortunately the scheme is not considered to accord with the Development Plan. If the applicant wishes to submit a further application, the Council is willing to assist in identifying possible solutions through the pre-application advice service.

- 3 This is a reminder that should an application for appeal be allowed, then the proposed development would be deemed as 'chargeable development', defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Therefore the following information may be of interest and use to the developer and in relation to any future appeal process:

The Mayor of London adopted a Community Infrastructure Levy (CIL) charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for a £0 per sq m rate for education and health developments. This planning application was assessed as liable for a £8,190 payment under Mayoral CIL at this time.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking were set at a rate of £0 per sq m. This planning application was assessed as liable for a £31,590 payment under Barnet CIL at this time.

Please note that Indexation will be added in line with Regulation 40 of Community Infrastructure Levy.

Liability for CIL is recorded to the register of Local Land Charges as a legal charge upon a site, payable should development commence. The Mayoral CIL charge is collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail.

The assumed liable party will be sent a 'Liability Notice' providing full details of the charge and to whom it has been apportioned for payment. If you wish to identify

named parties other than the original applicant for permission as the liable party for paying this levy, please submit to the Council an 'Assumption of Liability' notice; also available from the Planning Portal website.

The Community Infrastructure Levy becomes payable upon commencement of development. A 'Notice of Commencement' is required to be submitted to the Council's CIL Team prior to commencing on site; failure to provide such information at the due date will incur both surcharges and penalty interest. There are various other charges and surcharges that may apply if you fail to meet other statutory requirements relating to CIL, such requirements will all be set out in the Liability Notice you will receive. You may wish to seek professional planning advice to ensure that you comply fully with the requirements of CIL Regulations.

If you have a specific question or matter you need to discuss with the CIL team, or you fail to receive a 'Liability Notice' from the Council within 1 month of any appeal being allowed, please contact us: cil@barnet.gov.uk.

Relief or Exemption from CIL

If social housing or charitable relief applies to your development or your development falls within one of the following categories then this may reduce the final amount you are required to pay; such relief must be applied for prior to commencement of development using the 'Claiming Exemption or Relief' form available from the Planning Portal website: www.planningportal.gov.uk/cil.

You can apply for relief or exemption under the following categories:

1. Charity: If you are a charity, intend to use the development for social housing or feel that there are exception circumstances affecting your development, you may be eligible for a reduction (partial or entire) in this CIL Liability. Please see the documentation published by the Department for Communities and Local Government at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf

2. Residential Annexes or Extension: You can apply for exemption or relief to the collecting authority in accordance with Regulation 42(B) of Community Infrastructure Levy Regulations (2010), as amended before commencement of the chargeable development.

3. Self Build: Application can be made to the collecting authority provided you comply with the regulation as detailed in the legislation.gov.uk.

Please visit

www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil for further details on exemption and relief.

Officer's Assessment

1. Site Description

The application site comprises nos. 217 and 219, located on the western side of Regents Park Road, within the ward of Finchley Church End.

The buildings are two storeys in height and sited within a mid-terrace parade. The ground floor is split into two separate retail units, with 2 residential units above (217A and 219A). Only dwelling 219A is included within the application. Access to the first floor units is achieved through the rear elevation, via a small access road to the rear linking North Crescent to the north and south.

2. Site History

Reference: F/04464/10

Address: Regents Food & General Grocer, 219 Regents Park Road, London, N3 3LD

Decision: Approved subject to conditions

Decision Date: 17 January 2011

Description: Relocation of 2no air conditioning units with wooden boxes and new concrete floor.

Reference: F/00640/09

Address: 219 Regents Park Road, London, N3 3LD

Decision: Refused

Decision Date: 19 May 2009

Description: Retention of air conditioning units on rear elevation.

Reference: C06653D/06

Address: 219 Regents Park Road, London, N3 3LD

Decision: Approved subject to conditions

Decision Date: 29 November 2006

Description: Ground floor extension of existing retail unit.

Reference: C01616B

Address: 217 Regents Park Road N3

Decision: Approved subject to conditions

Decision Date: 21 February 1985

Description: Illuminated fascia and projecting box signs

Reference: C01616A

Address: 217 Regents Park Road N3

Decision: Approved subject to conditions

Decision Date: 21 February 1981

Description: Single storey building for storage of liquid petroleum gas cylinders.

Reference: C01616

Address: 217 Regents Park Road N3

Decision: Approved subject to conditions

Decision Date: 21 February 1967

Description: Shed for the storage of goods at rear of shop premises

3. Proposal

The application seeks the creation of a convenience food store which would combine together the two existing ground floor units. The proposal includes the erection of a part single, part two storey rear extension with timber fence at first floor level to surround the proposed external plant equipment. The existing outbuildings to the rear of the site are proposed to be demolished to facilitate the rear extension. In addition, the proposal includes alterations to the shop fronts, installation of ATM, trolley bay and bollards and the change of use of No.219a from self-contained flat (Use Class C3) to ancillary retail floorspace (Use Class A1).

The proposed rear extension would measure approximately 14.5m in depth and 10.2m in width on the ground floor, with the first floor element measuring 5.1m in width and a total height of 6.3m. The timber fencing surrounding the proposed plant enclosure would itself measure approximately 1.4m in height above the parapet wall. The extension would be finished with brick to match the existing.

The proposed operating hours are 6am - 11pm Monday to Sunday and it is expected the proposal will employ around 20-25 staff (full and part-time). The store will take the form of a new format 'fresh store', providing a good retail offer of fresh produce, including fruit/vegetables, fresh meals, salads and breads as well as household essentials.

4. Public Consultation

Consultation letters were sent to 71 neighbouring properties.

7 responses have been received, comprising 6 letters of objection and 1 letter of support.

The objections received can be summarised as follows:

- Site is not located in a high street location within Finchley;
- Site is located within a quiet residential area;
- Existing similar A1 retail units nearby;
- Proposed 2 storey element is not in keeping and out of character;
- Size of rear extension is too large;
- Overdevelopment of the whole site;
- Sense of enclosure as a result of proposed extensions;
- Loss of light to adjacent neighbouring properties;
- Loss of outlook;
- Flat roof would lead to overlooking impacts to neighbouring properties to the south;
- Noise assessment does not take into account delivery lorries and associated noise;
- Noise impact from proposed plant equipment;
- Proximity of proposed plant equipment and enclosure is unacceptable due to impact on neighbouring properties;
- Introduction of heavy good vehicles serving the shop and associated highways impacts;
- Rear access road is in private ownership; and
- Risk of sewer flooding.

The letter of support received can be summarised as follows:

- This part of Regents Park Road has been in decline for some time;
- Trade will continue to decline without new opportunities; and
- Proposed new store will attract footfall to the area and help other local traders maintain the business.

Internal Consultations

Environmental Heath - No objections

Traffic and Development - No objections

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS4, CS5, CS6, CS9, CS13, CS14, CS15.
- Relevant Development Management Policies: DM01, DM02, DM03, DM04, DM07, DM11, DM12, DM17.

Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted October 2016)

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Principle of development and loss of residential dwelling;
- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents.

5.3 Assessment of proposals

Principle of development

Retail Assessment

The existing lawful use of both the ground floor units is Class A1 (Shops). Therefore the principle of a new convenience store proposed by the applicant is accepted by Planning Officers as it falls within the existing lawful use class of the units. There are no restrictions imposed through previous planning conditions which would prevent the amalgamation of both units and therefore planning permission is not required for this element of the proposal.

The site is not located within a designated town centre but does lie within an existing parade of shops. The nearest town centre designation is Finchley Church End which is approximately 500m to the north. Barnet policy DM12 seeks to protect retail uses (Class A1) from change in local centres and parades and the Council will generally resist the loss of Class A1. In this instance, the proposal seeks to retain the use of Class A1 on site and as such Officers do not consider that the proposal conflict with overarching aims of policy DM12.

As the site is not located within a town centre, Barnet policy DM11 requires that all out of town retail development and retail extensions which exceed 200sq.m gross floorspace, to consider the sequential approach as set out in the NPPF. The Council will also expect this approach to be applied to the amalgamation of existing retail units in local centres or parades which result in a single unit exceeding 200sq.m gross. The proposed development fall would within these criteria and as such the applicant has carried out a sequential test.

Paragraph 24 of the NPPF states that Local planning authorities should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

In undertaking the sequential test, the report considers that the scope of the assessment should only be carried out in relation to other sites of a similar scale to the application proposal to ensure the site is capable of meeting the operator's commercial requirements. The operator would require a minimum sales area of 200sq.m with additional space for a back-of-house area (100 sqm minimum if at ground level, or 150 sqm if at separate level to sales floor). The assessment will not include considerations of sites which are below 300sq.m floorspace as these would not meet the requirements of the operator. The aim of

proposal is not to compete with the town centre uses but intended to provide a local top-up service to both local residents and passing trade along Regents Park Road. Using the operator's data and, it has been defined that the site would serve a catchment area of 400m and therefore a search of available units has been considered within this area. Officers do not dispute the justification relating to the scope of the sequential test.

The survey of available sites was conducted on 13 December 2016 and considered available sites within the town centre and identified catchment area. Four vacant sites were identified within the town centre and 1 alternative site within the catchment area. Two of these sites fell significantly below the required floorspace, 1 is under a pre-let agreement by Waitrose, and the last is located at the opposite end of the town centre which would not serve the identified catchment area. For such reasons these four sites were discarded as not been suitable or available to accommodate the proposed development. The fifth alternative site identified with the catchment area is located further south than the application and so not a sequentially preferable location.

Having reviewed the submitted information and sequential test analysis, Officers consider that an appropriate assessment taking into account the scale and nature of the proposed development has been undertaken which identifies that there are no other suitable sites within the designated town centre. Taking into account the proposal is located within an existing parade of shops and commercial units, the proposal is considered to meet the requirements of policy DM11.

Loss of residential

Currently there is an existing residential unit at first floor level at 219 which is accessed through the rear elevation. As part of the proposal, it is sought to change of the use of the unit to Class A1 to provide ancillary back of house floorspace.

Under policy DM07, the Council recognises that there is a high demand for housing in the borough and the loss of residential uses will not normally be acceptable. There are only a small number of specific circumstances where the loss of residential may be acceptable. This is where there is a clear local need demonstrated to provide any of the following local facilities: health facilities, a children's nursery or educational use. In addition to this London Plan policy 3.14 (Existing housing) highlights that existing housing should be retained where possible and appropriate, except where there are acceptable plans its replacement. The proposal would not meet any of the specific circumstances identified within policy DM17 and the existing unit is not being replaced. For these reasons, Planning Officers consider that the proposal would conflict with aims of Barnet policy DM07 and also policy 3.14 of the London Plan 2016.

In justifying the loss of residential use, the agent has stated that the proposed floorspace is required to provide a sufficient ancillary storage and office space associated with the retail sales area at ground floor. Without this level of floorspace, the operational needs of the applicant would not be met. The agent/applicant considers that the loss of residential use is acceptable given that there is a lack of convenience stores within the locality and there is a need for such a local facility. To support this statement, the applicant has submitted a Statement of Community Involvement to demonstrate that there is a significant level of public support for the proposed development. This consisted of a door to door outreach survey of households surrounding the site. From the 1250 identified addresses, a total number of 224 residents took part in the survey. A summary of the survey concluded that:

- 46.9% (105 residents) were supportive about the proposal;
- 11.6% (26 residents) were relatively supportive;
- 27.7% (62 residents) had no strong feelings either way;
- 10.3% (23 residents) did not support the scheme; and
- 3.5% (8 residents) were relatively unsupportive.

The responses and comments received from those residents surveyed are provided within the submitted Statement on Community Involvement.

While the agent and applicant have put forward a number of reasons to justify the loss of residential, there is a strong presumption against the loss of housing which is highlighted within Barnet policy DM07. The Planning Authority considers that given the high demand for housing provision within the borough, the loss of any residential use is considered to hold significant detrimental weight and is very strongly resisted by the Planning Authority, even if the specific circumstances contained within DM07 are being proposed. Taking into account the significant weight of this stance, the non-compliance with the specific circumstances contained within the policy, the proposal would represent a departure from policy which Officers do not consider that there are strong material considerations to outweigh the loss of residential dwelling.

Impact on character and appearance of existing building, streetscene and surrounding locality

Policy DM01 expects that development proposals should be based on an understanding of local characteristics and should respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.

The proposed alterations to the front elevation which include the installation of new entrance doors and replacement shop front glazing and fascia sign are considered to be acceptable and would create an acceptable appearance to the existing building.

Officers do not raise any objections to a ground floor rear extension as there are several of these present within a number of existing properties and also there are a number of single storey outbuildings. Therefore from a character perspective, a single storey extension does not raise any significant concerns. However, Officers do not accept that a two storey extension is appropriate due to the bulk, mass and height of the proposal; it would introduce a large element detrimental to the character and appearance of the existing building and surrounding area.

Whether harm would be caused to the living conditions of neighbouring residents

In terms of neighbouring residents, on Regents Park Road, residential units are located on the first floor and there are two dwellings (nos. 1 & 37 North Crescent) whose side boundaries face onto the access road.

Officers consider that the two storey extension by reason of its depth, bulk and height would have an overbearing impact on the first floor dwelling at 217A which would result in a sense of enclosure and loss of outlook. At first floor level, No.217 has a recessed balcony with windows serving habitable rooms. The proposed first floor extension would project approximately 14.5m along the boundary which would significantly enclose this balcony area and the window facing out onto the balcony would also be significantly impacted.

The applicant has submitted a Daylight and Sunlight report which assesses the potential impacts from the proposed development. The report has been carried out in accordance with the tests and standards contained in the BRE guidelines "Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice (2011)". The report considers the impact on daylight, sunlight and overshadowing and assesses the following properties:

- 1 North Crescent
- 37 North Crescent
- Upper parts of 215 Regents Park Road
- Upper parts of 217 Regents Park Road
- Upper parts of 221 Regents Park Road

The report concludes that having carried out the recommended assessment within the BRE guidance, there have been no identified potential impacts on daylight, sunlight or overshadowing.

Officers when considering the above report and due to the orientation of the site, where the rear elevations face west and the proposed extension would be located to the north; officers do not consider that the proposal would result in the loss of light to the southern residential units (nos. 217A and 215) or the detached properties to the west. The nature of the proposal does not increase levels of overlooking. The proposed flat roof and access to it would only be required to the proposed plant equipment, where it would be considered that the number of people required to enter this area to be fairly infrequent.

The Council's Environmental Health team has reviewed the submitted noise data in relation to the proposed plant equipment and Officers have commented that the noise criteria set in the report is acceptable as the predicted noise level at nights, at the nearest window, is relatively low. Overall, they find the proposed to be acceptable in terms of noise impact subject to conditions.

Highways

Deliveries and servicing of the retail store will be accommodated directly to the front of the store from Regents Park Road, with entry into the store via the main pedestrian access. A loading bay with restricted hours lies immediately outside the site on Regents Park Road. It is anticipated that the store will require 4-6 deliveries per day.

All of the goods cages and refuse bins will be stored internally and will be returned to the Co-op depot in the same delivery vehicle that delivers goods to the store.

The Council's Traffic and Development team has reviewed the submitted transport statement and comment that there is no onsite parking available for the existing use and that there is a loading bay which operates from 08.00am - 18.30pm and unrestricted parking fronting the site. In terms of parking provision, the existing retail unit does not have any parking provision associated with the use and no new parking is proposed. Taking into account the proposal is for an extension, the proximity of the site to the town centre and the unrestricted parking available on Regents Park Road fronting the site, the proposal complies with the parking standards as set out in the London Plan Parking Standards.

Overall, the Traffic and Development team have raised no objections to the proposal subject to a number of conditions and informatives being attached to any planning permission.

5.4 Response to Public Consultation

The issues raised in relation to the principle of retail unit and the proposals impact on the character of the surrounding area and residential amenity have been addressed within the report.

Issues arising from the private ownership of the road are considered to be civil matters.

As the existing lawful use of the sites is as Class A1, the possibility of delivery lorries and associated noise could in theory start at any time and does not require planning permission.

6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

7. Conclusion

Having taken all material considerations into account, it is considered that the proposed development would result in the loss of residential dwelling and have an unacceptable impact on the character and appearance of the application site, the street scene and the locality. The development is also considered to have an adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for refusal.



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